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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/564,145

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03/04/2009

EXAMINER

LOPEZ, MICHELLE

ART UNIT

PAPER NUMBER

3721

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/564,145	Applicant(s) STEINKE, HUBERT	
	Examiner Michelle Lopez	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-7,9-11,13-16 and 18-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2,4-7,9-11,13-16,18-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/30/08 has been entered.
2. Claims 8, 12, and 17 have been canceled.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 13, “a part of a first force-transmission extends in a longitudinal direction of said force transmission element more than a width ... over a cross-over point” is indefinite in that the scope of the claimed structure that applicant considers to be the invention is unclear. Such part and direction of extension more than a width are unclear and not concise with the specification. Clarification is requested.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 4, 7, 9-11, 13, 16, 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meixner (USPN 7076838) in view of Emonet (USPN 4576241). Meixner discloses a rotary hammer comprising: a main body (1); an impact mechanism (not shown numerically); a handle (3) that is movably supported relative to the main body; and a vibration-shielding unit connecting the handle with the main body and having a return element (15, 17) that produces a spring force, wherein the vibration-shielding unit comprises a guide device (5, 7) for guiding a motion of the handle along a straight line in a working direction against the spring force, and wherein the guide device comprises two force-transmission elements (19, 21), but fails to disclose wherein said two transmission elements are configured to perform a scissors-type motion. Emonet shows a hammer device comprising a main body, a handle system pivotally mounted to the main body, and a vibration-shielding unit comprises a guide device, wherein the guide device comprises two force-transmission elements (6, 7) configured to perform a scissors-type motion (as shown in figs. 2-3) for the purpose of providing a high dampening action to the vibrations transmitted from the hammer main body through to the handles. In view of Emonet, it would have been obvious to one having ordinary skill in the art to have modified the two force transmission elements of Meixner crossing over each other, i.e. having a scissors configuration,

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as taught by Emonet, in order to perform a scissors-type motion which provides a high dampening action to the vibrations transmitted from the hammer main body through to the handle.

5. With respect to claim 2, Meixner shows wherein the handle (3) is positioned at a distance away from the main body (1).

6. With respect to claim 4, Meixner shows wherein the force-transmission elements (19, 21) are interconnected in a pivoting manner by a connecting element (39) as shown in fig. 2.

7. With respect to claim 7, Meixner shows wherein each of the force transmission elements is displaceable supported at one end at the vicinity of (15, 17).

8. With respect to claims 9-10, Meixner shows at least one elastically deformable impact-absorption element (15, 17) configured as a return element.

9. With respect to claims 11 and 19, note that Emonet shows return elements (18, 19) which engages with the force transmission elements (6, 7).

10. As far as claim 13 was understood, it is deemed that the length of Meixner' transmission elements (19, 21) is more than they width as shown in fig. 2.

11. With respect to claim 16, Meixner does not specifically disclose wherein the distance between the handle element (3) and the tool body (1) has a value between 1 cm and 1.5 cm. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provide said distance values as claimed, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

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12. With respect to claim 18, as broadly claimed, it is deemed that Meixner's transmission elements (19, 21) have central regions which divide them into equal halves.

13. With respect to claim 20, Meixner shows wherein each of the transmission elements (19, 21) extends from a first bolt via connecting element (39) to a second bolt (35, 37).

14. Claims 5, 14-15, and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meixner (USPN 7076838) in view of Emonet (USPN 4576241), as applied to claim 4 above, and further in view of Smith (USPN 707803). The modified invention of Meixner discloses the claimed force-transmission elements interconnected in a pivoting manner by a connecting element (39 as taught by Meixner) and force-transmission elements configured to perform a scissors-type motion (as taught by Emonet), but the modified invention of Meixner fails to disclose wherein the connecting element is located in a central region of at least one of the force-transmission elements. Smith teaches the concept of a device comprising two housing parts movable together (via a scissors type motion) by a transmission configuration having two bars (5, 6) crossing over each other at connecting element (7) located on a central point of both bars for the purpose of pivoting the two housing parts along a straight line (via 17) while maintaining the two housing parts in parallel relation to each other during said straight pivotal motion. In view of Smith, it would have been obvious to one having ordinary skill in the art to have provided the modified invention of Meixner further interconnecting the two force transmission elements with a connecting element located in a central region of at least one of the force-transmission elements in order to maintain a parallel relation of the device main body and the handle during pivotal motion of said force transmission elements.

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15. With respect to claims 14-15, note that one of the Smith' transmission elements (5, 6) divides the other one into equal halves via connecting element (7) for the purposes of properly and evenly providing a scissors-type motion; wherein the two bars (5, 6) form an x-shape.

With respect to claim 20, Smith shows wherein each of the bars (5, 6) extends from a first bolt (at the vicinity of 5L and 6L) via a connecting element (7) to a second bolt (8, 9) which is arranged opposite to the first bolt.

16. With respect to claims 21-22, Smith shows wherein each of the bars (5, 6) is displaceable supported in a second bolt (5, 9), wherein said second bolt is engaged in a slot (3); and wherein a limitation of a movement of the bars (5, 6) is mediated by an end of the slot (3) as shown in fig.

1.

17. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meixner (USPN 7076838) in view of Emonet (USPN 4576241), as applied to claim 1 above, and further in view of Weber (GB 2171045A). The modified invention of Meixner discloses the claimed force transmission elements as discussed above, but fails to disclose wherein at least one of said force-transmission elements (19, 21) is supported on at least one end such that it is displaceable in a direction extending perpendicular to the direction of motion. Weber discloses a hand-held power tool handle device comprising a vibration-shielding unit via (15) and a guide device via (11c, 17,18) for guiding a motion of a handle element (12) which is movable relative to the power tool body (11) with a motion substantially along a straight line, and two force-transmission elements (15) supported on at least one end (at the vicinity of 17) that are displaceable in a direction extending perpendicular to the direction of motion of the handle element for the purpose of efficiently preventing transmission of vibrations generated in the body to the handle. It would

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have been obvious to one having ordinary skill in the art to have provided the modified invention of Meixner further having force-transmission elements supported on at least one end such that it is displaceable in a direction extending perpendicular to the direction of motion as taught by Weber in order to efficiently prevent transmission of vibration to the handle.

Response to Arguments

18. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

For the reasons above, the grounds of rejection are deemed proper.

Conclusion

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 571-272-4464. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michelle Lopez/
Examiner, Art Unit 3721

/Rinaldi I Rada/
Supervisory Patent Examiner, Art Unit 3721